

FILE COPY

STATE OF WISCONSIN  
BEFORE THE DEPARTMENT OF REGULATION AND LICENSING

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IN THE MATTER OF A PETITION FOR	:	
AN ADMINISTRATIVE INJUNCTION	:	
INVOLVING	:	FINAL DECISION
	:	AND ORDER
STANLEY A. BURDINE,	:	LS9711141RAL
RESPONDENT.	:	

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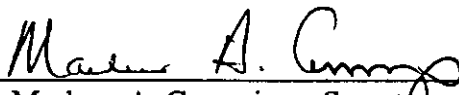
The State of Wisconsin, Department of Regulation and Licensing, having considered the above-captioned matter and having reviewed the record and the Proposed Decision of the Administrative Law Judge, makes the following:

ORDER

NOW, THEREFORE, it is hereby ordered that the Proposed Decision annexed hereto, filed by the Administrative Law Judge, shall be and hereby is made and ordered the Final Decision of the State of Wisconsin, Department of Regulation and Licensing.

The rights of a party aggrieved by this Decision to petition the department for rehearing and the petition for judicial review are set forth on the attached "Notice of Appeal Information."

Dated this 10<sup>th</sup> day of February 1998.

  
Marlene A. Cummings, Secretary  
Department of Regulation and Licensing

**STATE OF WISCONSIN**  
**BEFORE THE DEPARTMENT OF REGULATION AND LICENSING**

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IN THE MATTER OF A PETITION  
FOR AN ADMINISTRATIVE INJUNCTION  
INVOLVING  
**STANLEY A BURDINE,**  
RESPONDENT

**PROPOSED DECISION  
AND ORDER**  
Case No. LS-9711141-RAL

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Based on the authority in section 440.12(2) of the Wisconsin Statutes and chapter RL 3 of the Wisconsin Administrative Code, and the Findings of Fact and Conclusions of Law below,

**THE DEPARTMENT OF REGULATION AND LICENSING  
HEREBY ISSUES THE FOLLOWING SPECIAL ORDER:**

Effective on the date on which this order is signed by the departmental secretary or her designee,

- the respondent, Stanley A. Burdine, is **ENJOINED AND PROHIBITED** from continuing to engage, directly or indirectly, in barbering or cosmetology, which is conduct which requires a credential under chapter 454, Stats., unless and until he obtains the appropriate credential under chapter 454, Stats.; and
- the respondent, Stanley A. Burdine, is **ENJOINED AND PROHIBITED** from continuing to use the title of "barber", "cosmetologist", "barber cosmetologist", or "hairstylist" or any other title requiring a credential under chapter 454, Stats., unless and until he obtains the appropriate credential under chapter 454, Stats.

**ANY VIOLATION OF THIS SPECIAL ORDER MAY RESULT  
IN A FORFEITURE OF UP TO \$10,000 FOR EACH OFFENSE,  
WITH EACH DAY OF CONTINUED VIOLATION  
CONSTITUTING A SEPARATE OFFENSE.**

## **PARTIES**

The parties to this action under section 227.44 of the Wisconsin Statutes and chapter RL 3 of the Wisconsin Administrative Code, and for purposes of review under sec. 227.53, Stats., are:

Complainant: Division of Enforcement  
Department of Regulation and Licensing  
1400 East Washington Ave.  
Madison, WI 53703

Respondent:	Stanley A. Burdine	also serve at: Christopher Paul's Hair Studio
	2722 North 34th St.	4811 West Center St.
	Milwaukee, WI 53208	Milwaukee, WI 53210

Regulatory Authority: Department of Regulation and Licensing  
1400 East Washington Ave.  
Madison, WI 53703

## **PROCEDURAL HISTORY**

A. On November 14, 1997, the complainant, the Division of Enforcement in the Department of Regulation and Licensing, filed a petition for an administrative injunction. A hearing on the petition was scheduled for December 8, 1997. On November 14, 1997, a copy of the petition and a notice of hearing were served on the respondent by first-class mail to the respondent's last known address.

B. The notice of hearing informed Stanley A. Burdine that he was to file a written answer to the petition within 20 days after service. Mr. Burdine did not file an answer to the petition within the specified time limit.

C. The hearing was held as scheduled. The respondent did not appear. The owner of Christopher Paul's Hair Salon, Christopher Paul Martin, appeared on Mr. Burdine's behalf. The department was represented by Attorney Steven Gloe of the Department's Division of Enforcement. The hearing was recorded. The testimony and exhibits entered into evidence at the hearing form the basis for this Proposed Decision.

## **FINDINGS OF FACT**

1. The petition in this action was served upon the respondent, Stanley A. Burdine, by mailing to his last-known address under section RL 3.07, Wis. Admin Code.

2. The respondent, Stanley A. Burdine, does not hold a license to practice as a barber or cosmetologist in the State of Wisconsin.
3. On November 7, 1997, Stanley A. Burdine was observed practicing barbering and/or cosmetology at Christopher Paul's Hair Salon in Milwaukee, Wisconsin.
4. On November 7, 1997, Christopher Paul's Hair Salon was not properly licensed.

### **CONCLUSIONS OF LAW**

- I. Under section 440.21, Stats., and chapter RL 3, Wis. Admin. Code, the Department of Regulation and Licensing is the legal authority responsible for enforcing laws requiring credentials issued under chapters 440 to 459, Stats. The department has jurisdiction over the subject-matter of a petition alleging that a person engaged in a practice without a credential required under chapters 440 through 459.
- II. The respondent, Stanley A. Burdine was served by mail at his last-known address in Wisconsin under section RL 3.13, Wis. Admin Code. The Department of Regulation and Licensing has personal jurisdiction over the respondent under section 801.04(2), Stats.
- IV. The respondent, Stanley A. Burdine, has engaged in the practice of barbering or cosmetology and used the title of "barber", "cosmetologist", "barber cosmetologist", or "hairstylist" without a barber or cosmetologist license or a manager license, in violation of section 454.04(2) of the Wisconsin Statutes. A special order enjoining Stanley A. Burdine from continuing to practice barbering and cosmetology and to hold himself out as a barber or cosmetologist is therefore appropriate under section 440.21(2), Stats.

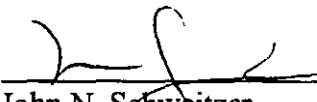
### **OPINION**

This case is an action for an administrative injunction against Stanley A. Burdine, under the authority of sec. 440.21, Stats., and ch. RL 3, Wis. Admin. Code. The petition in this matter alleged that Mr. Burdine engaged in activities which are reserved by statute to those holding a valid barber or cosmetologist license or a manager license under sec. 454.04(2), Stats.

The undisputed allegations in the complaint, confirmed in their essential points by testimony from the owner of Christopher Paul's Hair Studio, establish that Stanley A. Burdine used the title of "barber", "cosmetologist", "barber cosmetologist", or "hairstylist" and engaged in the practice of barbering and cosmetology without the professional credential required by statute. Mr. Burdine was given time following the December 8th hearing to complete applications and any other necessary paperwork to establish a valid apprenticeship at Christopher Paul's, but as of the date of this proposed decision, a valid apprenticeship had not been established. An administrative injunction is authorized by section 440.21(2), Stats., and chapter RL 3, Wis. Admin. Code, and it is clearly appropriate here.

Any person who violates a special order issued under section 440.21(2), Stats., may be required to forfeit up to \$10,000 for each offense, under section 440.21(4), Stats., and each day of continued violation constitutes a separate offense. It should be noted that the issuance of a special order in an administrative injunction does not preclude other remedies for the respondent's violations of statutes, such as a misdemeanor prosecution by the district attorney under section 457.17, Stats.

Dated and signed: January 26, 1998

  
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John N. Schweitzer  
Administrative Law Judge  
Department of Regulation and Licensing

STATE OF WISCONSIN  
BEFORE THE DEPARTMENT OF REGULATION AND LICENSING

In the Matter of a Petition for an Administrative Injunction Involving

Stanley A. Burdine,

AFFIDAVIT OF MAILING

Respondent.


STATE OF WISCONSIN    )  
                                      )  
COUNTY OF DANE        )

I, Kate Rotenberg, having been duly sworn on oath, state the following to be true and correct based on my personal knowledge:

1. I am employed by the Wisconsin Department of Regulation and Licensing.
2. On February 12, 1998, I served the Final Decision and Order dated February 10, 1998, and Application Information, LS9711141RAL, upon the Respondent Stanley A. Burdine and his establishment by enclosing true and accurate copies of the above-described documents in envelopes properly stamped and addressed to the above-named Respondent and his establishment and placing the envelopes in the State of Wisconsin mail system to be mailed by the United States Post Office by certified mail. The certified mail receipt numbers on the envelopes are P 221 158 347 (Burdine) and P 221 158 348 (Christopher Paul's Hair Studio).
3. The addresses used for mailing the Decision are the addresses that appear in the records of the Department as the Respondent's and his establishment's last-known addresses and are:

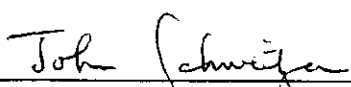
Stanley A. Burdine  
2722 N. 34th Street  
Milwaukee WI 53208

Christopher Paul's Hair Studio  
4811 W. Center Street  
Milwaukee WI 53210

  
\_\_\_\_\_  
Kate Rotenberg  
Department of Regulation and Licensing  
Office of Legal Counsel

Subscribed and sworn to before me

this 12<sup>th</sup> day of February, 1998.

  
\_\_\_\_\_  
Notary Public, State of Wisconsin  
My commission is permanent.

## NOTICE OF RIGHTS OF APPEAL

TO: STANLEY A BURDINE

You have been issued a Final Decision and Order. For purposes of service the date of mailing of this Final Decision and Order is 2/12/98. Your rights to request a rehearing and/or judicial review are summarized below and set forth fully in the statutes reprinted on the reverse side.

### A. REHEARING.

Any person aggrieved by this order may file a written petition for rehearing within 20 days after service of this order, as provided in section 227.49 of the Wisconsin Statutes. The 20 day period commences on the day of personal service or the date of mailing of this decision. The date of mailing of this Final Decision is shown above.

A petition for rehearing should name as respondent and be filed with the party identified below.

A petition for rehearing shall specify in detail the grounds for relief sought and supporting authorities. Rehearing will be granted only on the basis of some material error of law, material error of fact, or new evidence sufficiently strong to reverse or modify the Order which could not have been previously discovered by due diligence. The agency may order a rehearing or enter an order disposing of the petition without a hearing. If the agency does not enter an order disposing of the petition within 30 days of the filing of the petition, the petition shall be deemed to have been denied at the end of the 30 day period.

A petition for rehearing is not a prerequisite for judicial review.

### B. JUDICIAL REVIEW.

Any person aggrieved by this decision may petition for judicial review as specified in section 227.53, Wisconsin Statutes (copy on reverse side). The petition for judicial review must be filed in circuit court where the petitioner resides, except if the petitioner is a non-resident of the state, the proceedings shall be in the circuit court for Dane County. The petition should name as the respondent the Department, Board, Examining Board, or Affiliated Credentialing Board which issued the Final Decision and Order. A copy of the petition for judicial review must also be served upon the respondent at the address listed below.

A petition for judicial review must be served personally or by certified mail on the respondent and filed with the court within 30 days after service of the Final Decision and Order if there is no petition for rehearing, or within 30 days after service of the order finally disposing of a petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing. Courts have held that the right to judicial review of administrative agency decisions is dependent upon strict compliance with the requirements of sec. 227.53 (1) (a), Stats. This statute requires, among other things, that a petition for review be served upon the agency and be filed with the clerk of the circuit court within the applicable thirty day period.

The 30 day period for serving and filing a petition for judicial review commences on the day after personal service or mailing of the Final Decision and Order by the agency, or, if a petition for rehearing has been timely filed, the day after personal service or mailing of a final decision or disposition by the agency of the petition for rehearing, or the day after the final disposition by operation of the law of a petition for rehearing. The date of mailing of this Final Decision and Order is shown above.

The petition shall state the nature of the petitioner's interest, the facts showing that the petitioner is a person aggrieved by the decision, and the grounds specified in section 227.57, Wisconsin Statutes, upon which the petitioner contends that the decision should be reversed or modified. The petition shall be entitled in the name of the person serving it as Petitioner and the Respondent as described below.

### SERVE PETITION FOR REHEARING OR JUDICIAL REVIEW ON:

STATE OF WISCONSIN DEPARTMENT OF REGULATION AND LICENSING

1400 East Washington Avenue

P.O. Box 8935

Madison WI 53708-8935